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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 David Eli Hutchinson, ) No. CV 08-8108 PCT-NVW (ECV)  
10 Petitioner, )  
11 v. ) **ORDER**  
12 )  
13 Dora B. Schriro, et al., )  
14 Respondents. )  
15 \_\_\_\_\_)

16 Pending before the Court is the Report and Recommendation (“R&R”) of  
17 Magistrate Judge Voss (Doc. # 15) regarding petitioner’s Petition for Writ of Habeas  
18 Corpus filed pursuant to 28 U.S.C. § 2254 (Doc. # 1). The R&R recommends that the  
19 Petition be denied and dismissed with prejudice. The Magistrate Judge  
20 advised the parties that they had ten days to file objections to the R&R. (R&R at page 5  
21 (citing 28 U.S.C. § 636(b)). Petitioner filed objections on June 1. (Doc. # 16.)  
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23 The Court has considered the objections and reviewed the Report and  
24 Recommendation de novo. *See* Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1) (stating that  
25 the court must make a de novo determination of those portions of the Report and  
26 Recommendation to which specific objections are made). The Court agrees with the  
27 Magistrate Judge's determinations, accepts the recommended decision within the meaning  
28 of Rule 72(b), Fed. R. Civ. P., and overrules Petitioner's objections. *See* 28 U.S.C. §


1 636(b)(1) (stating that the district court “may accept, reject, or modify, in whole or in  
2 part, the findings or recommendations made by the magistrate”).

3       Insofar as the Magistrate Judge also ruled on any non-dispositive matters, error  
4 may not be assigned to any defect in those rulings to the extent that an aggrieved party  
5 did not file a timely objection. Fed. R. Civ. P. 72(a) (“A party may serve and file  
6 objections to the order within 10 days after being served with a copy [of the magistrate’s  
7 order]. A party may not assign as error a defect in the order not timely objected to.”). The  
8 absence of a timely objection precludes later assignment of error in this court or in any  
9 higher court of the non-dispositive rulings of a magistrate judge. *Simpson v. Lear*  
10 *Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996); *Philipps v. GMC*, 289 F.3d 1117,  
11 1120-21 (9th Cir. 2002).

12       IT IS THEREFORE ORDERED that the Report and Recommendation of the  
13 Magistrate Judge (Doc. # 15) is accepted.

14       IT IS FURTHER ORDERED that the Clerk of the Court enter judgment denying  
15 Petitioner’s Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254  
16 (Doc. # 1) and dismissing it with prejudice. The Clerk shall terminate this action.  
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18       DATED this 8<sup>th</sup> day of June, 2009.

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22 Neil V. Wake  
23 United States District Judge  
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